Dear Jim, Tom Kelley's 2/13/69 & HR's comment on it 3/26/77

I am quite surprised they surrendered this record.

Whether accident or not - and I think not- it may have broader significance than Howard indicated. He may have had in mind more than he said, that it was useful against Rhoads. It in fact casts Rhoads in the role I have.

There must be many memoranda of this kind. Like this with much also missing. Much of which Kelley knew that he does not reflect communicating to his fellow conferees.

Remember in response to my FOIA/PA request Goff insisted tyey have no records.

They were very sensitive on this and he was part of a conference with me so if Kelley wrote the memo on that Goff would have it, as he would what followed with Archives and Justice.

If in time they argue internal records, is this release to Howard a waiver?

Does this not indicate the existence of records not supplied by Archives and Justice, and can they also argue that exemption? Or can we defeat that argument?

Recently I've sent you copies of communications indicating the existence of withheld records where there has been no complisnce.

CIA and its approx 150 names connected with Garrison.

NSA which calimed no records sent me a copy of one it got back from FBI.

State now claims to be reviewing one of its records it adid not supply me that it says it got back from FBI. Both, of course, indicate very belated FBI processing of request, which appears to represent a decision to go against an earlier decision, the one under which there was no attention to the request. Perhaps this relates to the call you received from the office of the BAG and that to the coming af a new administration.

This also had broad significance re Rehnquist because of the participation of his office in so wrongful and prejudicial an operation. He may have been serious complicated in other matters that were before that office.

At the time in question Harding appears to have been in on all my requests, all correspondence. Once by accident they sent me a wrong copy from which this was clear. It then took months to get an answer.

This record, I think, is indicative of a much broader violation of the Act and of my rights than is represented by the memo of transfer only.

At the same time it raises questions about the deliberativep process and immunity. Is there immunity when officials conspire? This was a conspiracy. The deluberations were about violating the law and the law was violated. I'd like some legal scholrs to ponder this layman's view. I do not believe there is a proper legal philosophy under which an illegal act has sanction or immunity. I am confident there will be less problem with this under discovery than by request but what I'm asking is can this have added meaning with regard to the Act and abuses of it that have been immune?

Used properly I think this can mean much to the law and on this subject. The implications are horrendous. They talk like conspirators.

Best,